

PART 5322—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS**TABLE OF CONTENTS**

<u>Paragraph</u>	<u>Title</u>	<u>Page</u>
SUBPART 5322.1—BASIC LABOR POLICIES		22-1
5322.101	Labor relations.....	22-1
5322.101-1	General.....	22-1
5322.103	Overtime.....	22-1
5322.103-4	Approvals.....	22-1
SUBPART 5322.4—LABOR STANDARDS FOR CONTRACTS INVOLVING CONSTRUCTION		22-1
5322.406	Administration and enforcement.....	22-1
5322.406-8-90	Investigations.....	22-1
SUBPART 5322.10—SERVICE CONTRACT ACT OF 1965, AS AMENDED		22-2
5322.1011-2	Requests for status or expediting of response.....	22-2
5322.1021-90	Substantial variance hearings.....	22-2
5322.1024	Cooperation with the Department of Labor.....	22-2
SUBPART 5322.70—RESTRICTIONS ON THE EMPLOYMENT OF PERSONNEL FOR WORK ON CONSTRUCTION/SERVICE CONTRACTS IN ALASKA AND HAWAII		22-3
5322.7002	Waivers.....	22-3

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PART 5322—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

SUBPART 5322.1—BASIC LABOR POLICIES

5322.101 Labor relations.

5322.101-1 General.

(a) The contracting officer shall submit all reports and approvals required in FAR Part 22 through the appropriate regional labor advisor. In addition, in accordance with AFI 64-106, Air Force Industrial Labor Relations Activities, the Deputy Assistant Secretary (DAS) (Contracting) (SAF/AQC) approves, publishes, and implements all industrial labor relations policy. The Chief, Air Force Contractor Industrial Relations (AFMC CO/PKM) directs the day-to-day operations. AFI 64-106 identifies the regional labor advisors and their assigned geographical areas. The regional labor advisors:

- (1) Advise SAF/AQC of any actions or activities that may impact SAF/AQC, contracting offices, or labor relations policies;
- (2) Coordinate on all industrial labor relations actions and Air Force responses;
- (3) Monitor and report the status of major collective bargaining agreements and labor management relations affecting significant Air Force programs; and
- (4) Guide and assist Air Force commands and installations on labor issues.

5322.103 Overtime.

5322.103-4 Approvals.

(a) The following officials are designated, without power of redelegation, agency approving officials:

(1) In AFMC:

- (i) The Director and Deputy Director of Contracting, HQ AFMC;
- (ii) The commanders, vice commanders, and executive directors of AFMC Direct Reporting Units; and
- (iii) The System Program Directors, Senior Center Contracting Officials (SCCOs), and Buying Office Contracting Officials (BOCOs);

and

(2) In MAJCOMs other than AFMC, the commanders and vice commanders and the headquarters Directors and Deputy Directors of Contracting.

SUBPART 5322.4—LABOR STANDARDS FOR CONTRACTS INVOLVING CONSTRUCTION

5322.406 Administration and enforcement.

5322.406-8-90 Investigations.

(a) For construction contracts administered by the Air Force, the administering contracting office has the primary responsibility for conducting investigations. The contracting officer shall refer complaints or other evidence of possible labor standards violations to the regional labor advisor.

(b) When an investigation is necessary, the regional labor advisor will request assistance from the Department of Labor.

(1) If the Department of Labor is unable to conduct the investigation, the regional labor advisor will notify the contracting office that the Air Force is responsible for conducting the investigation.

PART 5322—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

(2) The chief of the contracting office will appoint an investigating officer to conduct the investigation in accordance with DFARS 222.406-8. The investigating officer will:

- (i) Inform the regional labor advisor of the status of the investigation at least every two weeks; and
- (ii) Forward the final report to the regional labor advisor for review and submission to the Department of Labor.

(c) When other than a detailed investigation is necessary, the regional labor advisor will recommend a course of action to the contracting office.

SUBPART 5322.10—SERVICE CONTRACT ACT OF 1965, AS AMENDED**5322.1011-2 Requests for status or expediting of response.**

If a requested determination, either individual or blanket, has not been received at least 30 days before the date needed, contact the appropriate regional labor advisor and provide pertinent information (e.g., date of submission and SF-98 number, number of contracts and types of services, and solicitation milestones). The regional advisor will seek to expedite the wage determination or Department of Labor authority to use the existing determination. The labor advisor will notify SAF/AQCO if it appears the new determination will not be issued in time to include in the solicitation and the authority to use the existing determination cannot be obtained.

5322.1021-90 Substantial variance hearings.

(a) If a variance appears to exist, the contracting officer shall contact the regional labor advisor for assistance. If it is agreed that a request for a hearing should be made, the labor advisor will ask the contracting officer to compile information to support the case. The information shall include wages and fringe benefits paid by a reasonable number of both Government contractors and private sector employers. Numbers of employees used by each company in each classification in question should be included. The regional labor advisor will review the supporting evidence and forward the request through channels to SAF/AQCO.

(b) Prevailing wage rate determinations (as opposed to those issued pursuant to a CBA) are not subject to a formal variance hearing procedure. If they appear to be excessive, data shall be referred to the regional labor advisor in the manner and with the evidence described above. The regional labor advisor and/or SAF/AQCO will contact the Department of Labor to request reconsideration of the wage determination.

5322.1024 Cooperation with the Department of Labor.

(a) The contracting officer shall send any Department of Labor requests for investigation to the regional labor advisor. The regional labor advisor will refer completed Department of Labor service contract investigations to the contracting officer. Depending on the circumstances, the contracting officer may need to:

- (1) Collect employee wage underpayments;
- (2) Recommend debarment;
- (3) Assess Contract Work Hours and Safety Standards Act (CWHSSA) liquidated damages; and
- (4) Waive or reduce CWHSSA liquidated damages.

(b) The Chief, Contractor Industrial Relations and the regional labor advisors have the authority to:

- (1) Reduce or waive the assessment of CWHSSA liquidated damages for amounts of \$500 or less;
- (2) Reject recommendations to reduce or waive CWHSSA liquidated damages regardless of amount; or
- (3) Recommend to Department of Labor reduction or waiver of liquidated damages in excess of \$500.

**SUBPART 5322.70—RESTRICTIONS ON THE EMPLOYMENT OF PERSONNEL FOR WORK ON
CONSTRUCTION/SERVICE CONTRACTS IN ALASKA AND HAWAII**

5322.7002 Waivers.

The contracting officer shall submit a written request through command contracting channels to SAF/AQCO justifying why it is in national security interests to waive the requirement.

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